

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:19-cv-00599-RJC
(3:18-cr-00075-RJC-DCK-1)**

SURRELL M. DUFF,)	
)	
)	
Petitioner,)	
)	
vs.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
_____)	

THIS MATTER comes before the Court on Petitioner’s “Motion to Compel Case Files.”¹
[Doc. 19].

On February 21, 2018, Pro Se Petitioner Surrell M. Duff (“Petitioner”) was charged in a Bill of Indictment with one count of crack cocaine trafficking conspiracy in violation of 21 U.S.C. §§ 841(a)(1) and 846 (Count One) and one count of possession with intent to distribute crack cocaine in violation of 21 U.S.C. §§ 841(a)(1) and 841(b)(1)(C) (Count Two). [CR Doc. 3: Indictment]. Petitioner and the Government entered into a Plea Agreement pursuant to which Petitioner agreed to plead guilty to Count One and the Government agreed to dismiss the remaining charge in the Indictment. [CR Doc. 17: Plea Agreement]. Petitioner was sentenced to a term of imprisonment of 120 months. [CR Doc. 29 at 2: Judgment]. Petitioner did not directly appeal his conviction or sentence. On November 5, 2019, Petitioner filed a Pro Se Motion to Vacate, Set Aside, or Correct Sentence under 28 U.S.C. § 2255. [CV Doc. 1]. The Court denied and dismissed

¹ Citations to the record herein contain the relevant document number referenced preceded by either the letters “CV,” denoting that the document is listed on the docket in the civil case file number 3:19-cv-00599-RJC, or the letters “CR,” denoting that the document is listed on the docket in the criminal case file number 3:18-cr-00075-RJC-DCK-1.

Petitioner's motion to vacate on the merits [CV Doc. 6] and denied Petitioner's motion to reconsider that Order, which the Court construed as an unauthorized, successive petition [CV Doc. 14].

Petitioner now moves the Court to compel his attorney in his criminal proceedings "to send a copy of his entire case file ... so he can pursue his appeal to the Supreme Court." [Doc. 19]. Petitioner states that he has been requesting his case files since October of 2019 and has been refused. [Id.]. The Court will deny this motion without prejudice to Petitioner bringing this motion in his related criminal proceedings. Petitioner is unrepresented in this civil proceeding and the relief he seeks should be achieved, if at all, in his criminal case.

IT IS, THEREFORE, ORDERED that Petitioner's Motion to Compel [Doc. 19] is **DENIED without prejudice** in accordance with the terms of this Order.

Signed: May 24, 2021

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

